

No. 12082

IN THE  
**United States Court of Appeals**  
FOR THE NINTH CIRCUIT

---

GEORGE C. MARSHALL, as Secretary of State,  
Appellant,

vs.

MIYE MAE MURAKAMI, TSUTAKO SUMI and  
MUTSU SHIMIZU,  
Appellees.

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**TRANSCRIPT OF RECORD**

Appeal From the District Court of the United States  
for the Southern District of California,  
Central Division

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FILED

JAN - 8 1949

PAUL P. O'BRIEN, -  
CLERK



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## INDEX

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italics; and likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible an omission from the text is indicated by printing in italics the two words between which the omission seems to occur.]

	Page
Answer to Complaint.....	21
Appeal:	
Notice of .....	54
Order re Exhibits.....	59
Stipulation re Exhibits, Filed October 21, 1948.....	56
Stipulation re Exhibits, Filed October 28, 1948.....	58
Stipulation re Printing of Record (Court of Appeals) .....	63
Stipulation re Record on.....	55
Certificate of Clerk.....	62
Complaint .....	2
Findings of Fact and Conclusions of Law.....	30
Judgment .....	52
Minute Order Entered August 20, 1948.....	20
Minute Order Entered August 26, 1948.....	29
Motion for Summary Judgment, Defendant's.....	16
Motion for Summary Judgment, Plaintiffs'.....	16
Names and Addresses of Attorneys.....	1
Notice of Appeal.....	54
Notice of Motion for Summary Judgment.....	15

	Page
Order Amending Answer to Complaint.....	61
Order re Exhibits.....	59
Petition for Correction of the Record by Striking Certain Words From the Answer to Complaint.....	59
Stipulation Filed August 17, 1948 [Plaintiffs' Exhibit No. 3] .....	18
Stipulation re Exhibits, Filed October 21, 1948.....	56
Stipulation re Exhibits, Filed October 28, 1948.....	58
Stipulation re Petition for Correcting Answer to Complaint .....	61
Stipulation re Printing of Record (Court of Appeals)	63
Stipulation re Record on Appeal.....	55



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In the District Court of the United States in and for the  
Southern District of California  
Central Division

No. 8394-WM

MIYE MAE MURAKAMI, TSUTAKO SUMI and  
MUTSU SHIMIZU,

Plaintiffs,

vs.

GEORGE C. MARSHALL, as Secretary of State,  
Defendant.

### COMPLAINT UNDER NATIONALITY ACT

Come now the plaintiffs, Miye Mae Murakami, Tsutako Sumi and Mutsu Shimizu, and complain of the defendant as follows:

#### I.

Plaintiffs are citizens of the United States of America, born in the United States, and are permanent residents of the Southern District of California. They are of Japanese ancestry but are neither under the laws of Japan, nor of the United States nor have ever been natives, citizens, denizens or subjects of Japan, or of any hostile nation or government, within the terms of Title 50, United States Code, Sec. 21 or Sec. 22, further allegations of fact pertaining thereto, being set forth hereinafter.

#### II.

The defendant is the Secretary of State of the United States. As such, he is the head of said Department.

#### III.

The plaintiffs, by virtue of their birth in the United [2] States and their United States citizenship as aforesaid,

are nationals of the United States, and the plaintiffs, claim the rights and privileges of nationals of the United States; the defendant denies that the plaintiffs are nationals of the United States and has denied the plaintiffs rights and privileges as nationals of the United States; and has announced that the plaintiffs do not possess United States nationality or citizenship.

More particularly, on May 28, 1948, plaintiffs, Miye Mae Murakami and Tsutako Sumi duly applied for a passport at the office of the Clerk of the District Court at Los Angeles, California; the plaintiff, Mutsu Shimizu, duly applied for a passport at the office of the Clerk of the District Court at Los Angeles, California, on June 7, 1948.

Thereafter, the defendant and/or officers of the State Department, subordinate to the defendant, as officers of the State Department and in behalf of the defendant as Secretary of State, denied said applications for passports and each of them; and made said denial and/or denials solely on the ground, as claimed by the defendant as Secretary of State and/or claimed by his subordinates, that the plaintiffs were no longer citizens or nationals of the United States by virtue of the claimed renunciation and/or abandonment of United States citizenship and/or nationality by plaintiffs at the Tule Lake Relocation Center.

The facts and circumstances of the renunciation of United States citizenship and/or United States nationality will be hereinafter set forth.

#### IV.

This Court has jurisdiction herein by virtue of Title 8, United States Code, Sec. 903.

## V.

In 1944 and/or 1945, the plaintiffs renounced their citizenship, but said renunciations were not of their own free and [3] voluntary acts; but on the contrary, were the result of undue influence, mistake, misunderstanding and coercion.

## VI.

The plaintiff, Miye Mae Murakami, presently resides in Burbank, California. She is 30 years of age, born November 18, 1917, in Mountain View, California. She attended the public schools in Menlo Park, California, and afterwards assisted her parents on their farm in Santa Clara, California. She married her present husband, a Japanese alien, on September 16, 1939, in Santa Monica, California. She was evacuated with her family from Santa Monica, California, on April 28, 1942, and sent to Manzanar Relocation Center, California. On February 26, 1944, she was transferred to Tule Lake Center under the "segregation program" as a result of her husband having applied for repatriation.

Due to her extreme reluctance to renounce her citizenship, she applied for renunciation on or about the last day that that was possible, or in May, 1945. She received her notice of approval of said renunciation in January 1946. She later received a "mitigation hearing" as a result of which she was released from Tule Lake Center on March 5, 1946, going first to Hawthorne, California, then to Santa Monica, California, and presently residing in Torrance, California.

She renounced her citizenship because of the reports and statements uttered to her that all American citizens and Japanese aliens would be segregated into different camps

during the war regardless of age, marriage or family hardships. She also renounced her citizenship in the belief that this was necessary not to be separated from her husband. She further renounced her citizenship because she feared being assaulted unless she did so renounce. The fascistic strong arm tactics used by the members of the Hoshidan in the Ward at Tule Lake Center where she lived kept the whole Ward in the constant state of hysteria, tension, fear and fright and [4] reports of stabbings, assaults in the dark, and invasions by members of the Hoshidan even into the women's latrines compelled her, for her own safety and welfare, to renounce her citizenship.

## VII.

The plaintiff, Tsutako Sumi, presently resides in West Los Angeles, California. She is 33 years of age, born on October 13, 1914, in Los Angeles, California. She is married to a Japanese alien and is the mother of three small children. She was evacuated in April 1942 to the Manzanar Relocation Center, transferring to the Tule Lake Center under the "segregation program" on February 27, 1944, after her husband had applied for repatriation. She applied for renunciation in March 1945, and was given a hearing a few months later. She received her notice of approval of said renunciation on October 8, 1945. After another hearing termed a "mitigation hearing," she was released from Tule Lake Center in February 23, 1946, and left said Center to join her husband who had left said Center earlier.

She resided in Block 75 in Tule Lake Center where the most rabid pro-Japanese elements resided. She lived in a daily atmosphere of fears, threats, apprehensions, wild distorted reports and rumors. In their attempts to force everyone in the Block and Ward to renounce their citizen-

ship, the Hoshida harangued her husband who was the block manager of Block 75 and hence ineligible to be a member of any organization, to have him force his wife to renounce her citizenship. Tremendous pressure was exerted upon the husband finally after having been the subject of ridicule, constant pressures and influences, he finally coerced and compelled his wife to renounce her citizenship against her will and desires.

### VIII.

The plaintiff, Mutsu Shimizu, presently resides in Roscoe, California. She was born in Los Angeles, California, on July 4, 1914. She was sent to Japan by her parents at the age of six years [5] where she remained until she was 16 years of age, and returned to the United States in 1931, after which she attended the public schools in Venice, California. She married her present husband, a Japanese alien, in 1938. She moved from Venice, California, to Hawthorne, California, from whence she moved to San Gabriel, California, and pursuant to the General Exclusion Order of Lt. Gen. John L. DeWitt, was evacuated to the Tulare Assembly Center. She, with her family, was then ordered transferred in September 1942 to the Gila Rivers Relocation Center and in the "segregation program," was again transferred to the Tule Lake Center after her husband had applied for repatriation. She is the mother of three children, all born in the United States, and hence, American citizens.

In December, 1944, she applied for renunciation, was accorded a hearing in January, 1945, and received word in October 1945 from the Department of Justice that her renunciation had been approved. In November 1945, she was accorded a "mitigation hearing" and upon showing of



no disloyalty to the United States was ordered released. She left the Tule Lake Center on February 22, 1946, and came to Burbank, California, from where she moved to Roscoe, California, where she presently resides.

She renounced her citizenship because of the tremendous pressure and influence aggravated by threats and rumors of threats, killings, stabbings imposed upon those who did not renounce and because, furthermore, she was informed that an American citizen who was married to an alien Japanese could not join or remain with their spouse unless they renounced their citizenship when such two groups were going to be separated in different camps during the War. Although her husband was an active leader of a pro-Japanese group, she never truly desired to renounce her citizenship. Her brothers and relatives have all served either honorably in the United States Army or assisted directly in the war effort, one of her brothers [6] having served in Korea, her other brother having taught the Japanese language to the Army at Stillwater College, Oklahoma, and her two brothers-in-law having served overseas in the armed forces.

## IX.

On the dates as aforesaid, the plaintiffs filled out forms of renunciation of citizenship under Title 8, United States Code, Sec. 801 (i) and the Rules and Regulations adopted by the Department of Justice, and designated as Sec. 316.1 to 316.9.

Said applications by the plaintiffs were accepted by the Attorney General as aforesaid, in the course of which the plaintiffs were denied the right of counsel and of confrontation and cross-examination of witnesses, and had neither the right nor opportunity to subpoena witnesses

in their behalf. Said applications were accepted by the Attorney General and/or his subordinates and agents, in reliance upon information adverse to the plaintiffs and not communicated to, or known to, the plaintiffs; and the plaintiffs were never given an opportunity to meet said adverse information.

Said acceptance of said applications, moreover, was made, based upon secret orders and/or instructions made by the Attorney General to his subordinates containing standards or so-called standards for the exercise of discretion by said subordinates and/or Attorney General, which said standards, instructions and/or orders were not communicated to the plaintiffs, and which were unavailable to the plaintiffs; nor were these orders, instructions and/or standards made public in any form, nor published in the Federal Register.

## X.

Plaintiffs are citizens of the United States by virtue of the Fourteenth (XIVth) Amendment, and such citizenship may not be renounced or taken away. [7]

## XI.

Title 8, United States Code, Sec. 801 (i) on its face and as applied, is unconstitutional, because it deprives the plaintiffs of liberty without due process of law under the Fifth (Vth) Amendment and of the right to be and remain a citizen under the Fourteenth (XIVth) Amendment.

Title 8, United States Code, Sec. 801 (i) is unconstitutional in that the authority to approve renunciations may be granted, if at all, only to the judicial branch of the government.



Moreover, the renunciation procedure is unconstitutional in that it is an unlawful delegation of legislative powers to the executive branch of the government; and furthermore, said renunciation procedure is an attempt to enforce an act of Congress which is vague and indefinite as to the standards to be followed by which renunciation is to be effected.

For a Second Cause of Action plaintiffs allege as follows:

### I.

Plaintiffs repeat the allegations of Paragraphs I, II, III, IV, V, IX, X, XI of this Complaint.

### II.

Prior to February 1942, plaintiffs had never been questioned by any police, military or investigatory authority; had never been arrested, charged with any crime or offense, or summoned or requested to appear in or to supply information to, any court, or police, military or investigatory authority; and had been at all times, and had at all times been treated, as loyal and law-abiding American citizens.

### III.

Prior to February 1942, plaintiffs had at all times been treated by local, State, and Federal authorities as having the same status as American citizens of any other ancestry, had never been [8] discriminated against by any governmental authority on the basis of such ancestry, and no actions had been taken by any governmental authority indicating that their ancestries could or would be causes for discriminations against them.

## IV.

With the exception of plaintiff, Mutsu Shimizu, none of the plaintiffs had ever made trips to Japan, and none of the plaintiffs had ever made any attempt to secure Japanese citizenship, or made any attempt or shown any desire to renounce their American citizenship.

## V.

By a series of orders issued by Lt. Gen. John L. DeWitt from February to July 1942, all American citizens of Japanese ancestry, including the plaintiffs were ordered from their places of residence, effective six days after the issuance of the order; such orders were applicable to citizens of Japanese ancestry regardless of their past conduct, habits, characteristics, or loyalty; such orders were based solely on ancestry and no citizens of other ancestries were similarly treated.

## VI.

Citizens of Japanese ancestry, including the plaintiffs, who were ordered excluded, as alleged in Paragraph V, were ordered to report for evacuation by military authorities; they were not informed of their destination or of the possible duration of their exclusion; they were transported under armed guard to hastily-constructed places of detention; they were allowed to take with them to such places of detention only a limited number of personal possessions; they were moved under armed guard from the original places of detention to other such places without being informed, at any time, of the probable duration of their incarceration; and they suffered privations in all such places of detention.

Such citizens of Japanese ancestry were able to secure [9] their release from detention only upon condition that

they make specified reports to an agency of the Government of the United States and upon condition that they remain in the constructive custody of the Government of the United States; and those who secured their release subject to these conditions were on occasion subjected to acts of violence, due to prejudice resulting in part from the Government's discriminatory measures of exclusion and detention hereinbefore described.

## VII.

Each of the plaintiffs were found by the War Relocation Authority to be free of any suspicion of disloyalty. Each of the plaintiffs were detained subsequent to such finding, and their detentions subsequent to such findings were illegal.

## VIII.

Subsequent to the enactment in July 1944, of the law authorizing the Attorney General to approve renunciations of citizenships as aforesaid, it was made known throughout the War Relocation Authority's detention camps by agents of the Attorney General and of the War Relocation Authority that citizens of Japanese ancestry in such camps could give up their American citizenship by filling out forms to be given to them by the Attorney General. Plaintiffs were in the War Relocation Authority's camps at the time renunciation was thus proposed.

## IX.

The Government did not, by supplying sufficient information in such camp, or other means, prevent the spread

in such camp, of misinformation, rumor, conjecture, and fear tending to cause American citizens of Japanese ancestry, including the plaintiffs, to renounce their American citizenships.

### X.

Each of the plaintiff's statement of intent to renounce their citizenships were made while in such camps. [10]

### XI.

Each of the plaintiff's state of mind which induced them to make such statement was influenced to a substantial degree by the Government's acts of racial discrimination specified in Paragraphs VI and VII of the Second Cause of Action of this Complaint; by their treatment by the Government during their detentions; and by conditions and misinformations in such camps, as specified in Paragraph IX, to which the Government caused them to be subject.

### XII.

At the time of the proposal of renunciation in the Fall of 1944 and at the time of the purported withdrawal of plaintiffs' citizenships by the Attorney General, on each of the dates as aforementioned, there was no danger of invasion of the United States by Japan; restrictions imposed by the Government of the United States on the civilian population of the United States for the purpose of preventing espionage and sabotage were being removed; all local, State and Federal agencies for the maintenance of law and order were functioning; and no emergency justified the withdrawal of plaintiffs' citizenships.

## XIII.

The facts alleged in all of the foregoing paragraphs of the Second Cause of Action were well-known to the Attorney General at the time he purported to revoke plaintiffs' citizenships.

## XIV.

The revocation of plaintiffs' citizenships, on the basis of an intention to renounce, influenced to a substantial extent by the Government's acts and by circumstances to which each of the plaintiffs were subject by virtue of the Government's acts, as alleged in IX, X and XI of the Second Cause of Action of this Complaint, was unfair, unreasonable, and a violation of the due process clause of the Fifth Amendment to the Constitution of the United States. [11]

## XV.

No announcement or proposal with regard to renunciations of citizenship such as was made to American citizens of Japanese ancestry, as alleged in Paragraph VIII of the Second Cause of Action, was made to American citizens of non-Japanese ancestry, including those American citizens of non-Japanese ancestry who had been convicted of sedition, espionage, sabotage, or other crimes involving national security and including those American citizens of non-Japanese ancestry who had been ordered excluded by military authorities from their places of residence purportedly because of the danger that they would commit espionage and sabotage.

## XVI.

The proposal of renunciation to American citizens of Japanese ancestry, including the plaintiffs, and the revocation of plaintiffs' citizenships constituted an unreasonable discrimination on the basis of race in violation of the due process clause of the Fifth Amendment to the Constitution of the United States.

Wherefore, the plaintiffs, and each of them pray for the following relief:

1. A judgment adjudging the plaintiffs' and each of their applications for renunciation, to be cancelled and to be adjudged null and void.
2. A judgment that the plaintiffs, and each of them, are citizens and nationals of the United States.
3. A judgment ordering the defendant to issue passports to the plaintiffs, and each of them, as, and within the terms, applied for by the plaintiffs.
4. And the plaintiffs, and each of them, pray for such additional relief as to the Court may seem just and proper.

A. L. WIRIN

FRED OKRAND and

FRANK CHUMAN

By A. L. Wirin

Attorneys for Plaintiffs

[Endorsed]: Filed Jul. 6, 1948. Edmund L. Smith,  
Clerk. [12]



[Title of District Court and Cause]

NOTICE OF MOTION FOR SUMMARY  
JUDGMENT

To the defendant herein and to James M. Carter, United  
States Attorney, attorney for said defendant:

You and Each of You Will Please Take Notice that  
on July 12, 1948, at the hour of 10 o'clock A. M., in the  
Federal and Post Office Building in the City of Los An-  
geles, State of California, before the Honorable Paul J.  
McCormick, Judge of the above entitled Court, the plain-  
tiffs will move the above entitled Court for a summary  
judgment against the defendant.

A. L. WIRIN  
FRED OKRAND and  
FRANK CHUMAN

By A. L. Wirin

Attorneys for Plaintiffs

[Endorsed] Filed Jul. 9, 1948. Edmund L. Smith,  
Clerk. [13]

[Title of District Court and Cause]

PLAINTIFFS' MOTION FOR SUMMARY  
JUDGMENT

Come now the plaintiffs and move the Court for summary judgment in their favor against the defendant.

A. L. WIRIN  
FRED OKRAND and  
FRANK CHUMAN

By A. L. Wirin

Attorneys for Plaintiffs [14]

[Affidavit of Service by Mail.]

[Endorsed]: Filed Jul. 9, 1948. Edmund L. Smith,  
Clerk. [15]

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[Title of District Court and Cause]

MOTION FOR SUMMARY JUDGMENT

Comes now the defendant, George C. Marshall, Secretary of State of the United States, and through his attorneys, James M. Carter, United States Attorney, Ernest A. Tolin, Chief Assistant U. S. Attorney, and Clyde C. Downing, Assistant U. S. Attorney, Chief of Civil Division, moves this Court for a summary judgment in his favor and against the plaintiffs.

The motion is based upon the ground that the plaintiffs' Complaint fails to state a claim against defendant upon which relief can be granted. By plaintiffs' admissions contained in their pleadings on file herein, they have re-



nounced their citizenship pursuant to the Act of January 20, 1948, Title 8, United States Code, Sec. 801 (i), and therefore are not entitled to the relief they seek in their Complaint filed herein.

Further, plaintiffs' Complaint contains clear admissions of their valid and effective renunciation of their citizenship, without any showing that such renunciations were invalid or ineffectual.

Further, the validity and Constitutionality of Title 50, United States Code, Secs. 21, 22, and 23 has been upheld. [U. S. Ex rel. Von Heymann v. Watkins, C. C. A., N. Y. (1947), 159 F. (2d) 650.] [16]

The pleadings and admissions on file herein reveal that the only controversial point involved is whether plaintiffs continued to be citizens of the United States after they had voluntarily, knowingly, and intentionally renounced their citizenship. There being no genuine issue as to the validity of such renunciations, therefore the defendant is entitled to judgment as a matter of law.

Respectfully submitted,

JAMES M. CARTER  
United States Attorney

ERNEST A. TOLIN  
Chief Assistant U. S. Attorney  
Attorneys for Defendant

[Endorsed]: Filed Aug. 17, 1948. Edmund L. Smith,  
Clerk. [17]

## [PLAINTIFFS' EXHIBIT NO. 3]

In the District Court of the United States in and for the Southern District of California, Central Division

Miye Mae Murakami, et al., Plaintiffs, vs. George C. Marshall, as Secretary of State, Defendants. No. 8394 M WM

## STIPULATION

It Is Stipulated:

1. On May 28, 1948, plaintiffs, Miye Mae Murakami and Tsutako Sumi each duly applied for a passport at the office of the Clerk of the District Court at Los Angeles, California; the plaintiff, Mutsu Shimizu, duly applied for a passport at the office of the Clerk of the District Court at Los Angeles, California, on June 7, 1948.

Thereafter, the defendant, by his subordinate officers in the State Department and on June 30, 1948, denied said applications for a passport and each of them; the ground for said denial being that the plaintiffs were no longer citizens and nationals of the United States by virtue of their renunciation of citizenship at the Tule Lake Relocation Center.

2. All of the evidence introduced in behalf of both the plaintiffs and the defendants in the case of Inouye vs. Clark, No. 5945 W and including Exhibit "A" in said case, said Exhibit "A" [18] being a book called, "The Spoilage," may be deemed to be introduced in evidence in the instant case.

3. The hearing upon the motion for summary judgment in behalf of both the plaintiffs and the defendant may be deemed a trial upon the merits of the above cause and that the various affiants would, if called, testify to the factual matter set forth in their respective affidavits. That such factual matters contained in such affidavits as are competent, material, relevant, and not inadmissible as being the opinion or conclusion of the respective affiants be deemed evidence adduced at the hearing of said case upon the merits.

A. L. WIRIN

FRED OKRAND and

FRANK CHUMAN

By A. L. Wirin

Attorneys for Plaintiffs

JAMES M. CARTER

United States Attorney

By Ernest A. Tolin

Attorneys for Defendant

Case No. 8394-M. Murakami vs. Marshall. Plfs.' Exhibit 3. Date 8-20-48. No. 3 in Evidence. Clerk, U. S. District Court, Sou. Dist. of Calif. E. M. Enstrom, Jr., Deputy Clerk.

[Endorsed]: Filed Aug. 17, 1948. Edmund L. Smith, Clerk. [19]

[Minutes: Friday, August 20, 1948]

Present: The Honorable Wm. C. Mathes, District Judge.

For hearing motions for summary judgment; A. L. Wirin, Esq., appearing as counsel for plaintiff; E. A. Tolin, Esq., appearing as counsel for defendant; counsel stipulate to proceed before filing of answer, and further stipulate that factual issues in this case are identical to that in the Inouye Case, No. 5945-W in this Court and No. 11,839 in the C. C. A.

Counsel further stipulate that evidence upon trial of this cause may be offered at this time. Plf's Ex. 1, 2, and 3 are received in evidence, being transcript on appeal in Case No. 5945-W, book entitled "The Spoilage"; and stipulation filed in this case Aug. 17, 1948, that hearing upon summary judgment in behalf of both parties be deemed a trial upon the merits.

Both parties rest. Counsel stipulate and Court orders that cause stand submitted for judgment upon the serving and filing of answer by defendant on or before Aug. 24, 1948. Court grants leave to Attorney Wirin to withdraw Ex. 2 upon entry of judgment. [20]

[Title of District Court and Cause]

## ANSWER TO COMPLAINT

Comes now the defendant, George C. Marshall, as Secretary of State, and by way of answer to the Complaint in the above captioned cause, pleads as follows:

### I.

Answering Paragraph I of said Complaint, admits that plaintiffs were born in the United States; admits that they are of Japanese ancestry; and denies all other allegations of Paragraph I of said Complaint. [21]

### II.

Admits all the allegations of Paragraph II of plaintiffs' Complaint.

### III.

Answering Paragraph III of plaintiffs' Complaint, admits that this defendant denies that the plaintiffs are nationals of the United States and has denied the plaintiffs a right and privilege enjoyed by nationals of the United States and has announced that the plaintiffs do not possess United States nationality or citizenship.

Admits that on May 28, 1948, plaintiffs Miye Mae Murakami and Tsutako Sumi duly applied for a passport at the office of the Clerk of the District Court at Los Angeles, California. Admits that plaintiff Mutsu Shimizu duly applied for a passport at the office of the Clerk of the District Court at Los Angeles, California, on June 7, 1948.

Admits that the defendant, acting by and through officers of the State Department, denied said applications for passports and each of them, and made said denials solely

on the ground that the plaintiffs were no longer citizens or nationals of the United States by virtue of renunciation and abandonment of United States citizenship and nationality by plaintiffs.

Denies all and singular the allegations of said Paragraph III of plaintiffs' Complaint not herein specifically admitted.

#### IV.

Admits the allegation of Paragraph IV of plaintiffs' Complaint.

#### V.

Denies all and singular the allegations of Paragraph V [22] of plaintiffs' Complaint.

#### VI.

As to plaintiff Miye Mae Murakami, admits her birth, age, residence, education, evacuation, application for renunciation, the approval thereof, her subsequent mitigation hearing, release and departure from Tule Lake Center on March 5, 1946, and subsequent residence in Hawthorne, California, followed by residence in Santa Monica, California, and present residence in Torrance, California, as alleged in Paragraph VI of said Complaint.

Denies all and singular the allegations of said Paragraph VI not herein specifically admitted.

#### VII.

As to plaintiff Tsutako Sumi, admits her birth, age, residence, education, marital and family status, evacuation, application for renunciation, the approval thereof, her subsequent mitigation hearing, release, and departure from Tule Lake Center, as alleged in Paragraph VII of said Complaint.



Admits that during plaintiff Tsutako Sumi's residence in Tule Lake Center, she resided in Block 75.

Denies all and singular the allegations of said Paragraph VII not herein specifically admitted.

### VIII.

As to plaintiff Mutsu Shimizu, admits her birth, age, residence, departure for Japan at the age of six years and subsequent residence there until she was sixteen years of age, her return to the United States in 1931, marital status and subsequent places of residence, evacuation to the Tulare Assembly Center and transfer to the Gila Rivers Relocation Center and subsequent transfer to the Tule Lake Center, marital and family status, [23] application for renunciation, hearing thereon, approval of renunciation, mitigation hearing, release and departure from the Tule Lake Center, and subsequent residence, all as alleged in Paragraph VIII of said Complaint.

Denies all and singular the allegations of said Paragraph VIII not herein specifically admitted.

### IX.

Answering Paragraph IX of plaintiffs' Complaint, admits the plaintiffs filled out forms of renunciation of citizenship under Title 8, United States Code, Sec. 801 (i) and the Rules and Regulations adopted by the Department of Justice, and designated as Sec. 316.1 to 316.9.

Admits that said applications by the plaintiffs were accepted by the Attorney General as aforesaid.

Denies all and singular the allegations of Paragraph IX not herein specifically admitted.

**X.**

Answering Paragraph X of plaintiffs' Complaint, denies all and singular the allegations thereof.

**XI.**

Answering Paragraph XI of plaintiffs' Complaint, denies all and singular the allegations thereof.

Answering plaintiffs' Second Cause of Action, pleads as follows:

**I.**

Repeats the above answers to Paragraphs I, II, III, IV, [24] V, IX, X, and XI of the Complaint. Said Paragraphs of said Complaint are incorporated by reference as Paragraph I of the Second Cause of Action.

**II.**

Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph II of said Second Cause of Action and, therefore, denies the same.

**III.**

Answering Paragraph III of said Second Cause of Action, admits the allegations thereof.

**IV.**

Answering the allegations of Paragraph IV, admits that with the exception of plaintiff Mutsu Shimizu, none of the plaintiffs had ever made trips to Japan; and denies all and singular the allegations of said Paragraph IV not herein specifically admitted.

**V.**

Answering Paragraph V of said Second Cause of Action, admits the allegations thereof.



VI.

Answering Paragraph VI of said Second Cause of Action, denies that citizens of Japanese ancestry who secured their release from detention were on occasions subject to acts of violence due to prejudices resulting in part from the Government's discriminatory measures of exclusion and detention hereinbefore described. [25]

VII.

[amended purs ord 10/29/48] denies

Answering Paragraph VII, ~~admits~~ that each of the plaintiffs were found by the War Relocation Authority to be free of any suspicion of disloyalty, and the plaintiffs were detained subsequent to such finding.

Denies all and singular the allegations of said Paragraph VII not herein specifically admitted.

VIII.

Answering Paragraph VIII of said Second Cause of Action, admits that subsequent to the reenactment in July 1944, of the law authorizing the Attorney General to approve renunciations of citizenships as aforesaid, it was made known throughout the War Relocation Authority's detention camps by agents of the Attorney General and of the War Relocation Authority that citizens of Japanese ancestry in such camps could give up their American citizenship by filling out forms to be given to them by the Attorney General. Admits that plaintiffs were in the War Relocation Authority's camps at the time renunciation was thus proposed.

Pleads further that numerous American citizens of Japanese ancestry had addressed requests to be permitted to renounce their American citizenship and that the num-

bers of such requests were of such volume that the matter was properly one of general interest in the War Relocation Authority's camps, and that information as to how such renunciations could be accepted was made known throughout the War Relocation Authority's detention camps in response to a general demand among the residents thereof for such information.

Specifically denies that the plaintiffs, or any one or more of them, were in any manner encouraged to renounce by agents of the Attorney General or of the War Relocation Authority, or any agency or department of the United States. [26]

### IX.

Answering Paragraph IX of said Second Cause of Action, defendant is without knowledge or information sufficient to form a belief as to the truth of the averments in said Paragraph IX and, therefore, denies the same.

Defendant specifically denies that the Government in any way, directly or indirectly, caused plaintiffs to be subject to any misinformation or fear.

### X.

Answering Paragraph X of said Second Cause of Action, admits the allegations thereof.

### XI.

Answering Paragraph XI of said Second Cause of Action, defendant is without information sufficient to form a belief as to the truth of the averments in said Paragraph XI as to the state of mind of plaintiffs, or as to the factors which induced such state of mind, and, therefore, denies the same.

Defendant denies that the Government caused plaintiffs to be subject to any misinformation.

XII.

Answering Paragraph XII of said Second Cause of Action, denies all and singular the allegations of said Paragraph XII.

XIII.

Denies the allegations of Paragraph XIII of said Second Cause of Action.

XIV.

Denies the allegations of Paragraph XIV of said Second [27] Cause of Action.

XV.

Neither admits nor denies the allegations of Paragraph XV of said Second Cause of Action herein on the ground that they are irrelevant to any issues raised.

XVI.

Denies the allegations of Paragraph XVI of said Second Cause of Action.

And Further Answering the complaint herein, defendant shows:

First, that renunciations were approved by the Attorney General only after the following procedural steps:

1. A written application for permission to renounce signed by the prospective renunciant was required to be filed in each case.

2. The submission of a formal statement of renunciation, upon which a hearing was held by an officer specially designated by the Attorney General, prior to its approval.
3. Approval by the Attorney General based upon the report and recommendation of such hearing officer.

Second, at his hearing, each plaintiff appeared in person before the designated hearing officer in a private interview at which no other person of Japanese ancestry was present.

Third, that it was the primary purpose of the hearing given each plaintiff to make certain that he fully understood the consequences of his act and undertook them voluntarily. To this end the hearing officer in each case was instructed to and did [28] inform him fully that citizenship once lost could not be regained, and that if he renounced and returned to Japan, he could in all probability never return to the United States.

Fourth, that each plaintiff herein individually filed a request to be permitted to renounce, having previously written to the Department of Justice requesting the required forms; and that after full explanation and hearing, each plaintiff herein reiterated his desire to renounce and filled out the requisite renunciation form after opportunity to acquaint himself with the relevant facts and consequences of his act.

Fifth, that plaintiffs made no effort to withdraw their renunciations until after approval of said renunciations by the Attorney General of the United States.

Sixth, that defendants accordingly assert that, contrary to the allegations of the complaint herein, plaintiffs were not in fact coerced or led by any form of duress or mistake to renounce their citizenship, but were voluntary participants in the movement for renunciation with full knowledge of the nature and consequences of their acts.

Wherefore, defendant respectfully submits that the Complaint herein should be dismissed and the relief prayed for therein be denied.

JAMES M. CARTER

United States Attorney

ERNEST A. TOLIN

Chief Assistant U. S. Attorney

Attorneys for Defendant

[Endorsed]: Filed Aug. 23, 1948. Edmund L. Smith,  
Clerk. [29]

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[Minutes: Thursday, August 26, 1948]

Present: The Honorable Wm. C. Mathes, District  
Judge.

Court orders that attorney for plaintiffs prepare findings and judgment in favor of plaintiffs forthwith. [30]

[Title of District Court and Cause]

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

The above entitled cause came on regularly for trial on *on* August 20, 1948, in the courtroom of the Honorable William C. Mathes, Judge, presiding without a jury, no jury having been requested, A. L. Wirin, Fred Okrand, and Frank Chuman by A. L. Wirin, appearing as attorney for plaintiffs, and James M. Carter and Ernest A. Tolin by Ernest A. Tolin, appearing as attorney for defendant, and evidence having been introduced on behalf of all parties, and the Court having considered the same and heard the arguments of counsel and being fully advised, makes the following:

### Findings of Fact

1. Plaintiffs and each of them are of Japanese ancestry born in the United States and are residents of the Southern District of California.
2. The defendant George C. Marshall is the Secretary of State. As such, he is the head of said Department of State of the United States. [32]
3. The plaintiffs by virtue of their birth in the United States claim to be nationals of the United States and further claim the rights and privileges of nationals of the United States; the defendant denies that the plaintiffs are nationals of the United States and further denies the plaintiffs' rights and privileges as nationals of the United States and has announced that plaintiffs do not possess United States nationality nor citizenship.

On May 28, 1948, plaintiffs, Miye Mae Murakami and Tsutako Sumi each duly applied for a passport at the



office of the Clerk of the District Court at Los Angeles, California; the plaintiff, Mutsu Shimizu, duly applied for a passport at the office of the Clerk of the District Court at Los Angeles, California, on June 7, 1948.

Thereafter, the defendant, by his subordinate officers in the State Department and on June 30, 1948, denied said applications for a passport and each of them; the ground for said denial being that the plaintiffs were no longer citizens and nationals of the United States by virtue of their renunciation of citizenship at the Tule Lake Relocation Center.

4. On July 1, 1944, Congress amended Section 401 of the Nationality Code (Title 8, U. S. C. A. Section 801) by adding an additional ground for loss of citizenship as follows:

“A person who is a national of the United States, whether by birth or naturalization, shall lose his nationality by . . . (i) making in the United States *States* a formal written renunciation of nationality in such form as may be prescribed by, and before such officer as may be designated by, the Attorney General, whenever the United States shall be in a state of war, and the Attorney General shall approve such renunciation as not contrary to the interests of national defense.”

5. Plaintiff Miye Mae Murakami was born on November 18, 1917, in Mountain View, California. She attended the public schools [33] in Menlo Park, California. She married her present husband, a Japanese alien, on September 16, 1939. She was evacuated with her family from Santa Monica, California, on April 28, 1942, and sent to the Manzanar Relocation Center, California. In

February 1944 she was transferred to the Tule Lake Center under the "segregation program" as a result of her husband having applied for repatriation to Japan. On March 1, 1945, she applied for permission to renounce United States nationality and was granted a hearing on said application on March 14, 1945. She signed a form for renunciation of United States nationality on the same day as the hearing, to wit: March 14, 1945, which was approved by the Attorney General on May 3, 1945.

In a letter sent to Mr. E. J. Ennis of the Enemy Alien Control Unit of the Department of Justice in Washington, D. C., dated August 30, 1945, she set forth the fact that pressure had been applied to her to renounce her citizenship. The letter is set forth below as follows:

"Dear Mr. Ennis:

"Several months ago, I renounced my United States citizenship which I regret very much. My final papers have not come so I am writing in hopes that this letter reaches you in time.

"At the time I sent my application in, the members of the organization made it so that to have peace around the block one just had to renounce his citizenship. The pressure was so bad we even had to join this organization, but we managed to withdraw later.

"Also, at that time, I thought that my husband, who is an alien and I, who is a citizen, would be separated so the only way was to renounce my citizenship and remain together.

"At the relocation office I found out that my husband [34] is on the free list while I am not; just because of my citizenship.



“For the above reasons, I would like you to reconsider cancellation of my renunciation of citizenship. I am asking for a parole from Tulelake so I can go out with my husband.

“Am anxiously waiting for a reply, I remain,

Yours very truly,

/s/ Mae Miye Murakami”

In the report and recommendation of the hearing officer on her application for non-repatriation dated June 25, 1946, she stated to the hearing officer that the primary reason for her having renounced her United States nationality was her fear of being separated from her husband in view of the fact that she had three small American-born children to care for. As a result of her hearing, she was ordered released from the Tule Lake Center on February 21, 1946.

6. Plaintiff Tsutako Sumi was born on October 13, 1914, in Los Angeles, California. She is married to a Japanese alien and is the mother of three small children. She and her husband, together with the children, were evacuated to the Manzanar Relocation Center in April 1942, and were later transferred to the Tule Lake Center under the “segregation program” on February 27, 1944, after her husband had applied for repatriation to Japan. She applied for permission to renounce United States nationality on January 20, 1945, and was granted a hearing on renunciation of her citizenship on February 1, 1945. On the day of the hearing, she also signed a form renouncing her United States nationality, which renunciation was approved on May 3, 1945. On December 3, 1945, she addressed a letter to the Department of Justice in Washington, D. C., that she had applied for her applica-

tion for renunciation by mistake. A copy of this letter is set forth below:

"Dear Sir: [35]

"I, Sumi Tsutako, (Family No.) 1293 and residing  
Last Name  
at 7502-AB Tule Lake, Calif. am a renouncee and  
applied for an application for repatriation by mis-  
take.

"My desire is to remain in this country with my  
children who are all American citizens.

"At that time, I immediately notified the Philadel-  
phia Office of Japanese Interest to have my applica-  
tion changed to Application for non Repatriation.

"As I had notified you about this matter, I am  
writing this letter at this time to have my case re-  
corded at your office.

Very truly yours,

/s/ Tsutako Sumi"

Thereafter on January 23, 1946, at a hearing as to  
whether she should be repatriated to Japan, the hearing  
officer reported that her reason for renouncing her United  
States nationality was to accompany her husband to  
Japan. An order for her release from the Tule Lake  
Center was entered on February 19, 1946.

7. Plaintiff Mutsu Shimizu was born on July 4, 1914,  
in Los Angeles, California. She married her husband, a  
Japanese alien in 1938. She attended the public schools  
in Venice, California. She is the mother of three children  
born in the United States. She and her husband with  
the three children were sent to the Gila River Relocation  
Center, and were later transferred to the Tule Lake Center

under the "segregation program" as a result of her husband having applied for repatriation to Japan. Her brothers and relatives have all served honorably in the United States Army or assisted directly in other ways in the war effort. One of her brothers served honorably in the United States Army in Korea; her other brother taught the Japanese language at the Army language school at Stillwater College, Oklahoma; her two brothers-in-law served overseas in the United States Army. [36]

On December 28, 1944, she applied for permission to renounce her United States nationality and was granted a hearing on January 16, 1945. On the day of the hearing, she further signed a form renouncing her United States nationality, which renunciation was approved by the Attorney General on May 3, 1945. On November 5, 1945, a letter was addressed to the War Department in Washington, D. C., by her parents on her behalf that she had renounced her citizenship because of the atmosphere which prevailed in the Tule Lake Center which forced her to renounce against her will. A copy of this letter is set forth below as follows:

"November 5, 1945.

Gallup, New Mexico

"War Department  
Department of Justice  
Washington 25, D. C.

"Dear Sir:

Re: Mrs. Mutsu Shimizu  
address 402-C  
Tulelake, California

"We the undersigned are the parents of the above person. Now we understand that she has changed

her mind and desires to remain in this country forever. Also, we understand that she previously has renounced her citizenship that might be caused by such atmosphere in Tulelake Center, where such a formidable atmosphere often prevails in such a camp as Tulelake.

“Now she realizes her wrong attitude and has changed her mind and wishes to stay in this country together with her husband namely Akira Shimizu and their three children.

“As the parents to foresaid Mutsu Shimizu, we heartily beg to Your Honor for your consideration on this case and please let them stay in this country, and we are to be sure that she was a good citizen in this country and will be the [37] same in the future.

“Yours truly,

/s/ Kichiji Chuman      Father

/s/ Toyo Chuman      Mother

P. O. Box 512

Gallup, New Mexico”

At the hearing that was held on January 15, 1946, she stated that she renounced her citizenship in order to accompany her husband to Japan in the event her husband was deported, and that if she attempted to raise her children outside the camp, she did not feel that normal life was possible in the United States because of prejudice. As a result of the hearing, an order was entered on February 13, 1946, that she should be released from the Tule Lake Center.

8. Each of the plaintiffs was found by the War Relocation Authority to be free of any suspicion of disloyalty to the United States.

9. In January 1942, great anti-Japanese agitation was aroused, proposing that all persons of Japanese ancestry should be evacuated from the West Coast of the United States. The agitation resulted in the ultimate removal from this area by military authorities of all persons of Japanese ancestry whether alien or citizen of the United States.

10. In February 1942, approximately six hundred (600) males of Japanese ancestry who theretofore had been serving in the United States Army, either by way of induction or enlistment, had been honorably discharged from the United States Army or transferred to the Reserves. The certificates of honorable discharge gave as the reason for discharge, for the convenience of the Government. Commencing in March through the spring of 1942, one hundred and ten thousand (110,000) persons of Japanese ancestry, both citizens and aliens alike, were removed from the Western Defense Command composing [38] all the Pacific Coast states into assembly centers and later into relocation centers. Such evacuation was felt by these persons to be proof that they were persona non grata to the American public and to the United States Government. In a matter of a few short weeks, a lifetime of savings had been lost. They had lost their homes and friends. They had been forced to liquidate, give away, or abandon their farm equipment, merchandise, and such other valuable and personal property that they had.

11. In the Spring of 1943, the War Relocation Authority, under which persons of Japanese ancestry had been



placed under military guard in the relocation centers, encountered unfavorable publicity in the press. A subcommittee of the House Select Committee to Investigate Un-American Activities conducted an investigation into the policies of the War Relocation Authority and recommended segregation of those whom it deemed disloyal to the United States from those it deemed loyal. The preparation for this segregation process was carried on in the spring and summer of 1943. The Tule Lake Relocation Center was designated as the depository for "disloyal" Japanese. Over 6,000 American citizens of Japanese ancestry stigmatized as disloyal entered the Tule Lake Center in September and October of 1943 under this segregation program. Some 6,000 residents of Tule Lake who refused to move to another relocation center were also present in the center. Other persons included women and children. Children loyal to the United States were allowed to accompany segregree parents. Parents who were aliens loyal to the United States were allowed to accompany segregree children.

Several reasons were prominent as to why the evacuees decided to become segregants and to assume the status of individuals disloyal to the United States. They included (a) fear of being forced to leave the centers and face a hostile American public; (b) concern for the security of their families; (c) fear on the part of evacuee parents that their sons would be drafted if the sons did [39] not become segregees; (d) anger and disillusionment, owing to the abrogation of citizenship rights; (e) bitterness over economic losses brought about by the evacuation. A great many of the people at Tule Lake under the segregation program also regarded it as a

place of refuge where they might remain for the duration of the war.

The final count under the segregation program was eighteen thousand (18,000) persons. They were placed in the Tule Lake Center in an area of six square miles of black volcanic ash and were forced to live in uncomfortable, black tar-paper barracks under a pall of black smoke in the winter and ash and dust in the summer. The 18,000 people within the confines of barbed-wire enclosure comprised a conglomerate community of persons from all walks of life living in close proximity with one another, not by reason of freedom of choice but under a predetermined program prescribed for them by the Government. There was no normal living to be found. Families from isolated rural communities were flanked by strange families from urban communities. Fishermen from Terminal Island, farmers from Central California, merchants from Seattle, Portland, San Francisco, Los Angeles, lawyers, doctors, and other professional persons and scholars, and even the gamblers, prostitutes, and criminals were co-mingled into this community. They lived in crowded, dismal barracks, ate unpalatable food of the mess halls, lacked privacy in community lavatories and laundry rooms, and lived in a constant atmosphere of a concentration camp of dead monotony.

The segregation program brought together persons who honestly felt an allegiance to Japan and the Japanese Emperor, but it also brought the trouble-makers, the malcontents, the fractious, the rebellious and frustrated, the draft-dodgers, the fanatics, the social misfits, the professional "organizers," the party politicians, the political leaders and their gangs of "goons" and "strong arm" boys.



12. On November 1, 1943, there was a demonstration by the [40] residents of Tule Lake Center against Dillon Myer, the Director of the War Relocation Authority. The leader of the representative body composed of Japanese residents engineered a mass demonstration. The behavior of this crowd was orderly. On the same day, however, a group of young Japanese entered the center hospital and attacked and severely beat the Caucasian chief medical officer who was unpopular with the Japanese residents.

13. On November 4, 1943, a fight broke out between the Caucasian War Relocation Authority Internal Security force (police department of the center) and a group of young Japanese men. Immediately thereafter the military assumed control of the center to prevent further demonstrations and attacks upon Caucasian personnel. The leaders of this mob action were placed within a barbed-wire stockade which had been constructed in the center.

14. From November 13, 1943, until January 24, 1944, the military completely controlled the Tule Lake Center under a declared condition of martial law.

15. On January 24, 1944, the Army returned Tule Lake Center to the control of the War Relocation Authority. The Army, however, still held some three hundred and seventy-five (375) Japanese men as prisoners in the barbed-wire stockade, including all the members of the self-constituted "negotiating committee" which had engineered the meeting with Mr. Dillon Myer on November 1, 1943.

16. In the spring of 1944, it was becoming more and more evident on the part of Caucasian and Japanese residents that there existed a strong underground pressure

group composed mostly of fanatic Japanese aliens and those persons of Japanese ancestry whose sympathies lay with the Japanese Government. This underground group was considerably strengthened by the arrival of certain parolees from Santa Fe Alien Internment Camp, a camp operated by the Department of Justice for those whom it had apprehended as Japanese whose presence in the Western Defense Command at the outbreak of the war [41] between Japan and the United States on December 7, 1941, was inimical to the national defense. Powerful gang leaders accompanied these groups of parolees.

17. In the spring of 1944 soon after the arrival of this group of parolees or in April 1944, the underground group emerged and adopted the name Saikakuri Seigan (literal translation: "Appeal for Resegregation"). This resegregation group was also known as the Sokuji Kikoku Hoshi-dan whose membership was composed of families, adult aliens, citizens, and minor children.

18. Later in 1944, the Hoshi-dan sponsored an auxiliary body for young men. This was called the Young Men's Fatherland Group. It was also called the Sokoku Kenkyu Seinan-dan and the Hokoku Seinen-dan. Most of the members were citizens of the United States. These organizations were intimately related, and many or most of the members of the Young Men's Fatherland Group were members of the resegregation group. The older men, i. e., the Issel, advised the Young Men's Fatherland Group and formed most of the policies of the young organization. It was the avowed purpose of the resegregation group to set up activities to keep the center in a state of turmoil. A series of assaults were added to the tension. Certain men who had openly criticized the activities of the resegregation group were attacked at

night and severely beaten. Several of the beatings were engineered by the alleged gang leaders. None of the assailants were apprehended by the police. In the Tule Lake Center, seven men alleged to be "inus" were beaten. There was an extraordinarily powerful evacuee fear of being considered an "inu" or "stool pigeon." The "inu" phenomenon was a potent means of social control in all the centers. In Tule Lake, it played a significant part in sociological developments which preceded renunciation of citizenship. It was largely responsible for the fact that terrorists and persons guilty of violent assault were not denounced to the authority. [42]

19. On July 1, 1944, Subsection (i) of 401 of the Nationality Act authorizing renunciation of American citizenship under certain expressed circumstances was added to the Nationality Code of 1940. The proposal that American citizens should be permitted in time of war to renounce their citizenship was made for the purpose of devising a system of controlling the disloyal and riotous element at Tule Lake by separating them through renunciation of their American citizenship into enemy aliens for control and detention by the Department of Justice.

20. On July 3, 1944, Mr. Hitomi, the General Manager of the Cooperative and an alleged "inu," was found in front of an apartment of his relative with his throat cut. The remaining members of the Cooperative's Board of Directors received anonymous communications that they would meet the same violent end if they did not cease their opposition to the pro-Japanese association. The Japanese members of the Board resigned in a body. All Japanese members of the Internal Security also resigned and sought shelter for their families and themselves on the Caucasian side of the fence. The residents of the

center were frightened for weeks. A period of extreme community tension and fear followed the murder of Mr. Hitomi. This murder set a pattern of violence over and above the ordinary beatings which took place from time to time, over and above the daily threats and intimidations which the organized minority used to dominate the unorganized majority. If Mr. Hitomi was killed for some reason or for no reason at all, the residents were in constant fear that the same thing would happen to them.

2. On July 13, 1944, the Tule Lake project newspaper, *The Newell Star*, published a statement explaining that the Congress of the United States had passed a law which provided that a citizen of the United States might make a formal written renunciation of nationality.

22. On August 12, 1944, the resegregation group leaders [43] organized a young men's group ostensibly devoted to the study of Japanese history and culture called the Sokoku Kenkyu Seinen-dan or the Young Men's Fatherland Group. This new group was fostered and developed by subversive leaders who organized "goon" squads or "strong arm" boys to execute their orders. In a high-powered membership drive and with the use of every kind of deception, intimidation, and threat, the membership boomed. Many people, both young and old, were forced to join this subversive organization against their will. Men were forced to shave their heads. The Americanized girls were coerced into membership and then to wear their hair in "pig tails."

23. On September 24, 1944, a petition was circulated by this subversive group for renunciation by American citizens of their citizenship. This petition for renunciation was circulated without the permission of the War

Relocation Authority. Pressure was exerted upon the residents who would not sign such a petition. A substantial majority of the residents disapproved of this petition and further resented the social pressure applied by its circulators. Gang leaders were threatening persons who opposed their program with violence. Many residents believed that if they opposed this resegregation group movement that they were in immediate danger of physical violence from the gang. In fact, the residents could not even speak against this resegregation program.

24. On September 27, 1944, the War Relocation Authority issued a statement that the petition was unauthorized. There was evidence, however, that the resegregationists continued their efforts to get signatures.

25. On October 15, 1944, several elderly Issei men were attacked by a group of assailants and severely beaten. The attack was instigated by one of the advisors of the Young Men's Fatherland Group. The attack was occasioned by these persons having publicly spoken against the activities of the resegregation group. [44]

26. On October 21, 1944, the gang leader of the Young Men's Fatherland Group addressed the members of the group and told them that he would incite the men to violence and promised to take care of them if they got into trouble.

27. On October 30, 1944, the right-hand man of the alleged gang leader knifed a young Nisei. The father of the victim had been a resegregationist, had "found out how rotten they were," and had publicly criticized the alleged gang leader. In addition to the known leaders of the disloyal organization, there was a group of unknowns, behind-the-scene advisors and strategists, who were much



more powerful than the known leaders and members of the organization. These unknown advisors and strategists employed force through the use of "goon" squads. These strong armed gangs of fanatic young men operated at night intimidating, threatening, attacking, beating, and even accomplished a murder. The local evacuee police force was afraid to interfere with the activities of these hoodlums.

28. On December 5, 1944, Mr. John L. Burling of the Alien Enemy Control Unit of the War Division of the Department of Justice arrived at the Tule Lake Center to initiate the hearings for renunciation of citizenship. Mr. Burling had been sent by Assistant Attorney General Wechsler.

29. On December 6, 1944, the renunciation hearings commenced and continued until December 14, 1944. During this period there was an intensification of tensions, fears, and extreme insecurity, brought about by misinterpretations of administrative policies on the part of the residents, which raised the residents to a state bordering on panic. The common witticism among officials of the center at the time of the renunciation hearing was that the population of the center was largely "mad" and that the center should be taken from the War Relocation Authority and transferred to the United States Public Health Service to be run as a specie of mental institution. A nucleus of genuinely pro-Japanese leaders whipped the people up [45] to hysterical frenzy of Japanese patriotism. Also, at or near the renunciation hearing, the pro-Japanese organization established a "college of renunciation knowledge" and carefully coached those called for hearings on questions which would be asked and the correct answers to

be given. Specific instructions were given on what to say and how to act at the hearings.

30. The following is a brief description of the physical facilities and operation of the renunciation hearing procedure. Mr. John L. Buring was assigned a hearing room for his exclusive use. He was assigned as a Caucasian interpreter and a Caucasian stenographer by the War Relocation Authority. Individuals who had applied for permission to renounce citizenship were called in separately and questioned by Mr. Burling. No other person of Japanese ancestry was in the room. After the questioning was finished, the applicant was presented with a renunciation form which he was asked to sign. Stenographic transcripts were taken of each hearing.

31. On December 19, 1944, Major-General H. C. Pratt, Commanding General of the Western Defense Command, withdrew the public proclamations and orders of 1942 which had ordered the exclusion of all persons of Japanese ancestry from the West Coast area. This lifting of the exclusion order permitted all such persons to return to the West Coast with the exception of named individuals who were served with individual exclusion orders. The project newspaper, *The Newell Star*, published this proclamation on the same day.

32. Also on December 19, 1944, the War Relocation Authority, through Mr. Dillon Myer, issued a statement that all of the centers would be closed with a period of six months to one year after the revocation of the exclusion order. An Army team of some twenty officers further began to hold hearings on December 19 for the purpose of inducting loyal male residents of American citizenship [46] into the United States Army.



33. On December 23, 1944, Mr. John L. Burling returned to Washington, D. C. to report to Mr. Edward J. Ennis, head of the Enemy Alien Control Unit, Assistant Attorney General Wechsler, and Attorney General Francis Biddle. Mr. Burling had been at the Tule Lake Center a period of eighteen days.

34. On December 26, 1944, as a result of force, fears, coercions, and intimidations of pro-Japanese aliens upon American citizens, some two thousand (2,000) applications for renunciation poured into the Department of Justice in Washington, D. C. Such a great number of applications caused the Tule Lake Center Post Office system to break down under the pressure.

35. On December 27, 1944, seventy leaders and officers of the resegregation group were removed to the Alien Internment Camp in Santa Fe, New Mexico. These men were the most active leaders in the reign of terror which existed in the center during the renunciation hearings. The removal of these seventy leaders gave the remaining terrorists and propagandists a stronger foothold over the pro-Japanese organizations.

36. In January 1945, Mr. John L. Burling again left Washington, D. C., for California with hearing officers, Charles M. Rothstein, Joseph J. Shevlin, Ollie Collins, and Lillian C. Scott.

37. Enroute to California, another avalanche of three thousand four hundred (3,400) additional applications for renunciation were received by the Department of Justice.

38. On January 11, 1945, the Department of Justice hearing officers arrived at the Tule Lake Center. By the time they arrived, of seven thousand (7,000) citizens

over the age of eighteen (18) years, over five thousand (5,000) had applied for renunciation of their citizenship.

39. On January 18, 1945, Mr. Burling released a letter written on behalf of the Attorney General condemning the activities [47] of the resegregation group stating that they were "intolerable and they must cease." This letter was addressed to the Chairman of the Sokuji Kikoku Hoshi-dan and the Chairman of the Kokoku Seinen-dan as follows: "I am well aware that your two organizations have put pressure on residents of this center to assert loyalty to Japan and that in a number of cases physical violence was employed . . . It is as treasonable to coerce others into asserting loyalty to Japan here as it would be outside. All these activities will stop."

40. On January 26, 1945, the second group of pro-Japanese organization leaders and officers were removed to the Department of Justice Internment Camp at Santa Fe, New Mexico. About six hundred and fifty (650) members of the organization were removed on February 11, 1945, and one hundred and twenty-five (125) men were removed to the same camp on March 4, 1945.

41. On January 29, 1945, a statement by Mr. Dillon Myer was released in the project newspaper that "those who do not wish to leave the Tule Lake Center are not required to do so and may continue to live here or at some similar center until January 1, 1946."

42. On February 11, 1945, after six hundred and fifty (650) members of the pro-Japanese organizations had been removed by the Department of Justice to the Santa Fe Alien Internment Camp, the anxiety and panic of the residents reached a new peak. Lawlessness, gangsterism, and hoodlumism prevailed at the center during this period. The residents of the Tule Lake Center

had for almost four years been subject to the demoralizing effects of center life. They had suffered physical hardship and loss of property from the evacuation. They had been stigmatized by the press as rioters. Those who desired work were not given employment. They had been subject to misinterpretation of the renunciation procedure. They had been subject to rumors which had produced an irrational state of mind, which accompanied long detention, isolation, tension, and insecurity in the form of a mass hysteria. [48]

43. On March 16, 1945, the War Relocation Authority announced to the residents that the activities in which the pro-Japanese group had taken part, e. j., parades, drilling, and bugling, were unlawful and prohibited. This announcement came after the pressure by these disloyal elements had accomplished the purpose of having obtained a renunciation by a great majority of the residents of their citizenship.

44. Miye Mae Murakami lived during the entire renunciation procedure in Block 75 of Ward 8, admittedly the most rabid pro-Japanese section of the entire Tule Lake Center. She lived in an atmosphere of fears, threats, and scares stirred up by gangsters and hoodlums of the pro-Japanese organizations. She was threatened with her life unless she renounced, even in the supposed privacy of the women's washroom when rough-looking men invaded such room to put the women in fear of physical harm. She lived in an atmosphere of assaults, batteries, stabbings, and pressures from neighbors. She had heard of the mysterious murder of a leader of the Japanese community and that other residents would meet the same fate unless they renounced their citizenship. These threats and fears resulted in her losing completely any sense of perspective

or balance in her thinking. She renounced her citizenship not of her own free will but by the pressure exerted upon her by the life in the community and by the fears that prevailed in the center.

45. Tsutako Sumi resided in Block 75, Ward 8. She lived in an atmosphere of threats, wild distorted reports and rumors. The pro-Japanese gangs attempted to force everyone in the block to renounce their citizenship. The leaders applied pressure upon her husband to force him to coerce his wife to renounce her citizenship. She was cognizant of the beatings which had been imposed upon residents who had dared to oppose the pro-Japanese groups. She knew that the center police force, composed of Japanese evacuees, could never give her adequate protection in the case of an assault. She [49] was also caught in a whirlpool of mass anxiety, pressures, ridicules, and threats, which in the end resulted in her renouncing her citizenship against her will.

46. Mutsu Shimizu had heard of a murder committed upon a resident of the center which was followed by threats from pro-Japanese groups that other residents would meet the same end if they did not renounce. She was fearful of physical violence from Caucasians if she relocated. The pro-Japanese societies constantly stirred her emotions, fears, and anxieties. She lived in an atmosphere of pressures, compulsions, influences, and coercions which deprived her of any voluntary willingness to renounce her citizenship. Being subject to and living daily in such an atmosphere caused her to renounce her citizenship.

#### Conclusions of Law

1. This Court has jurisdiction under the provisions of 8 U. S. C. 903 (54 Stat. 1171) and under the pro-

visions of Judicial Code Section 274d, Amended (28 U. S. C. 400).

2. The benefits of citizenship can be renounced or waived only as the result of free and intelligent choice. Since the purported renunciation of the plaintiffs Miye Mae Murakami, Tsutako Sumi, and Mutsu Shimizu was not as a result of their free and intelligent choice but rather because of mental fear, intimidation, and coercions depriving them of the free exercise of their will, said purported renunciations are void and of no force or effect.

3. All of the plaintiffs are entitled to have their purported renunciations cancelled and they are further entitled to their full rights of citizenship; and all of the plaintiffs are further entitled to receive passports as citizens of the United States.

4. Judgment is hereby ordered to be entered cancelling the purported renunciations of all the plaintiffs and adjudging that [50] all the plaintiffs be restored to their full rights as citizens of the United States; and judgment is further ordered against the defendant to issue passports to the plaintiffs, as citizens of the United States, as prayed for in the Complaint.

Dated this 27th day of August, 1948.

WM. C. MATHES

Judge, United States District Court

Approved as to form under local rules 7(a) of the United States District Court this 27 day of August, 1948. James M. Carter, United States Attorney; Ernest A. Tolin, Assistant United States Attorney, Attorneys for Defendant.

[Endorsed]: Filed Aug. 27, 1948. Edmund L. Smith, Clerk. [51]



In the District Court of the United States in and for the  
Southern District of California  
Central Division

No. 8394-WM

MIYE MAE MURAKAMI, TSUTAKO SUMI and  
MUTSU SHIMIZU,

Plaintiffs,

vs.

GEORGE C. MARSHALL, as Secretary of State,  
Defendant.

### JUDGMENT

The above cause having come on for trial on August 20, 1948, the parties hereto having stipulated that the testimony submitted to the Court in affidavits filed in behalf of both the plaintiffs and the defendants upon motions for summary judgment, may be considered by the Court upon said trial upon the merits and that the various affiants would, if called, testify to the factual matter set forth in their respective affidavits,

And the Court being fully advised in the premises and having made and filed its Findings of Fact and Conclusions of Law and the Court having ordered judgment herein in favor of the plaintiffs, Miye Mae Murakami, Tsutako Sumi, and Mutsu Shimizu, and against the defendant, George C. Marshall.

Now, Therefore, It Is Hereby Ordered, Adjudged and Decreed That:

The renunciations of United States citizenship pursuant to Section 801 (i) of the Nationality Act of 1940, executed by the [52] plaintiffs and each *each* of them and approved by the Attorney General, are null and void and cancelled; and that the plaintiffs and each of them are hereby restored to their rights of United States citizenship.

It Is Further Ordered that the defendant, as Secretary recognize and treat [Mathes, J.] of State, ~~^ issue to the plaintiffs passports,~~ as citizens of the United States, as prayed for in the Complaint.

Dated at Los Angeles, California, this 27th day of August, 1948.

WM. C. MATHES  
Judge, United States District Court

Approved as to form under local rules 7(a) of the United States District Court this 27 day of August, 1948. James M. Carter, United States Attorney; Ernest A. Tolin, Assistant United States Attorney, Attorneys for Defendant.

Judgment entered Aug. 27, 1948. Docketed Aug. 27, 1948. Judg. Book 52, page 586. Edmund L. Smith, Clerk; by J. M. Somers, Deputy.

[Endorsed]: Filed Aug. 27, 1948. Edmund L. Smith, Clerk. [53]



[Title of District Court and Cause]

NOTICE OF APPEAL

To the plaintiffs, Miye Mae Murakami, Tsutako Sumi,  
and Mutsu Shimizu, and their attorneys, A. L. Wirin,  
Fred Okrand, and Frank Chuman:

You Will Please Take Notice that the defendant, George C. Marshall, as Secretary of State, does hereby appeal to the United States Circuit Court of Appeals for the Ninth Circuit, from the Judgment of the above entitled District Court entered August 27, 1948, in favor of the plaintiffs and against said defendant, and from the whole thereof.

Dated: This 1st day of October, 1948.

JAMES M. CARTER

United States Attorney

ERNEST A. TOLIN

Chief Asst. U. S. Attorney

By Ernest A. Tolin

Chief Asst. U. S. Attorney

Attorneys for Appellant

[Endorsed]: Filed & mld. copy to A. L. Wirin, Oct. 1, 1948. Edmund L. Smith, Clerk. [54]

[Title of District Court and Cause]

STIPULATION RE RECORD ON APPEAL

It is hereby stipulated by and between the plaintiffs Miye Mae Murakami, Tsutako Sumi, and Mutsu Shimizu, and the defendant, George C. Marshall, as Secretary of State, in the above entitled action through their respective counsel, A. L. Wirin, Fred Okrand, and Frank Chuman for plaintiffs, and James M. Carter, United States Attorney, and Ernest A. Tolin, Chief Assistant United States Attorney, for defendant, that the record on appeal from the judgment entered August 27, 1948, in favor of the plaintiffs and against the defendant shall consist of the following:

1. The complaint under the Nationality Act filed July 6, 1948.
2. Plaintiffs' Notice of Motion for Summary Judgment filed July 9, 1948.
3. Plaintiffs' Motion for Summary Judgment filed July 9, 1948.
4. Defendant's Motion for Summary Judgment filed August 17, 1948.
5. Stipulation filed August 17, 1948.
6. The Answer to Complaint filed August 23, 1948. [55]
7. Findings of Fact and Conclusions of Law filed August 27, 1948.
8. Judgment dated August 27, 1948.
9. All Minute Orders and entries.
10. Exhibits 1 and 2.
11. Notice of Appeal filed October 1, 1948.
12. This Stipulation re Designation of Record filed October 21, 1948.

13. Stipulation re Exhibits filed October 21, 1948.

14. Stipulation re Printing of Record filed October 21, 1948.

The above mentioned documents constitute the entire record in the said case.

Dated: This 21st day of October, 1948.

A. L. WIRIN  
FRED OKRAND and  
FRANK CHUMAN

By Fred Okrand

Attorneys for Plaintiffs

JAMES M. CARTER  
United States Attorney

ERNEST A. TOLIN  
Chief Asst. U. S. Attorney

By Ernest A. Tolin

Attorneys for Defendant

[Endorsed]: Filed Oct. 21, 1948. Edmund L. Smith,  
Clerk. [56]

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[Title of District Court and Cause]

### STIPULATION RE EXHIBITS

It is hereby stipulated by and between the plaintiffs Miye Mae Murakami, Tsutako Sumi, and Mutsu Shimizu, and the defendant, George C. Marshall, as Secretary of State, in the above entitled action through their respective counsel, A. L. Wirin, Fred Okrand, and Frank Chuman for plaintiffs, and James M. Carter, United States Attorney, and Ernest A. Tolin, Chief Assistant United States

Attorney, for defendant, that at the time of trial of the above entitled matter on August 27, 1948, pursuant to a Stipulation filed August 17, 1948, in the records of said case, plaintiffs offered into evidence as Exhibit 1 the printed transcript of record in the case of Clark v. Inouye, C. C. A. No. 11839, which said transcript of record contains all of the evidence introduced on behalf of both the plaintiffs and defendant at the trial of said case, No. 5945-W, and as Exhibit 2 a book called "The Spoilage" which said book is Exhibit A on file with the Clerk [57] of the Ninth Circuit Court of Appeals in said Clark v. Inouye. Said exhibits were admitted into evidence by the trial court in the above entitled matter and considered by said trial court in the trial of this case.

Dated: This 21st day of October, 1948.

A. L. WIRIN

FRED OKRAND and

FRANK CHUMAN

By Fred Okrand

Attorneys for Plaintiffs

JAMES M. CARTER

United States Attorney

ERNEST A. TOLIN

Chief Asst. U. S. Attorney

By Ernest A. Tolin

Attorneys for Defendant

[Endorsed]: Filed Oct. 21, 1948. Edmund L. Smith,  
Clerk. [58]

[Title of District Court and Cause]

STIPULATION RE TRANSMISSION OF  
ORIGINAL EXHIBITS

It is hereby stipulated by and between the plaintiffs Miye Mae Murakami, Tsutako Sumi, and Mutsu Shimizu, and the defendant George C. Marshall, as Secretary of State, in the above entitled action through their respective counsel, A. L. Wirin, Fred Okrand, and Frank Chuman for plaintiffs, and James M. Carter, United States Attorney, and Ernest A. Tolin, Chief Assistant United States Attorney, for defendant, that the original exhibits One and Two offered into evidence in the above entitled case shall be transmitted to the United States Court of Appeals, Ninth Circuit, in lieu of copies thereof for the purpose of including said exhibits in the record on appeal in this matter.

Dated: This ..... day of October, 1948.

A. L. WIRIN  
FRED OKRAND and  
FRANK CHUMAN

By A. L. Wirin  
Attorneys for Plaintiffs

JAMES M. CARTER  
United States Attorney  
ERNEST A. TOLIN  
Chief Asst. U. S. Attorney  
By Ernest A. Tolin  
Attorneys for Defendant

[Endorsed]: Filed Oct. 28, 1948. Edmund L. Smith,  
Clerk. [59]

[Title of District Court and Cause]

ORDER

Pursuant to the Stipulation of the parties of the above entitled action, it is hereby ordered that the original Exhibits 1 and 2 offered into evidence in the above entitled case shall be transmitted to the United States Court of Appeals, Ninth Circuit, in lieu of copies thereof for the purpose of including said exhibits in the record on appeal in this matter.

Dated: This 28th day of October, 1948.

WM. C. MATHES

United States District Judge

[Endorsed]: Filed Oct. 28, 1948. Edmund L. Smith,  
Clerk. [60]

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[Title of District Court and Cause]

PETITION FOR CORRECTION OF THE RECORD  
BY STRIKING CERTAIN WORDS FROM THE  
ANSWER TO COMPLAINT; STIPULATION  
AND ORDER THEREON

Whereas, the motions for summary judgment and the trial herein were had and argued upon the theory that the defendant denied the allegations of Paragraph VII of the Complaint herein; and

Whereas, by inadvertence in the preparation of the Answer, the following language was placed therein commencing at line 1 of page 6, and concluding at line 7 of page 6:

## VII.

Answering Paragraph VII, admits that each of [61] the plaintiffs were found by the War Relocation Authority to be free of any suspicion of disloyalty, and the plaintiffs were detained subsequent to such finding.

Denies all and singular the allegations of said Paragraph VII not herein specifically admitted.

and;

Whereas, it was the intention of the pleader that instead of using the word "admits" at line 2 of said page 6, to use the word "denies"; and

Whereas, proceedings were in fact had herein upon the theory that the word "denies" was used at said place in said pleadings instead of the word "admits":

Now, Therefore, defendant George C. Marshall, as Secretary of State, respectfully petitions the Court to amend his Answer nunc pro tunc by striking therefrom the word "admits" at line 2 of page 6, and by inserting in lieu thereof the word "denies".

JAMES M. CARTER

United States Attorney

ERNEST A. TOLIN

By Ernest A. Tolin

Chief Assistant U. S. Attorney

Attorneys for Defendant George C. Marshall, as  
Secretary of State [62]



STIPULATION

It Is Hereby Stipulated by and between the parties hereto, through their respective counsel, that the prayer of the foregoing Petition may be granted.

Dated: This 29th day of October, 1948.

A. L. WIRIN

FRED OKRAND and

FRANK CHUMAN

By A. L. Wirin

Attorneys for Plaintiffs

JAMES M. CARTER

United States Attorney

ERNEST A. TOLIN

By Ernest A. Tolin

Chief Assistant U. S. Attorney

Attorneys for Defendant George C. Marshall, as  
Secretary of State

ORDER

For the reasons stated in the Petition of defendant, George C. Marshall, as Secretary of State, and upon the Stipulation of all parties hereto, and proper cause appearing:

It is Hereby Ordered that the Answer of George C. Marshall, as Secretary of State, may be amended nunc pro tunc as of the date of the filing thereof, by striking therefrom at line 2 of page 6 the word "admits" and by inserting in lieu thereof the word "denies".

Dated: This 29th day of October, 1948.

WM. C. MATHES

United States District Judge

[Endorsed]: Filed Oct. 29, 1948. Edmund L. Smith,  
Clerk. [63]

[Title of District Court and Cause]

### CERTIFICATE OF CLERK

I, Edmund L. Smith, Clerk of the District Court of the United States for the Southern District of California, do hereby certify that the foregoing pages numbered from 1 to 63, inclusive, contain full, true and correct copies of Complaint Under Nationality Act; Plaintiffs' Notice of Motion and Motion for Summary Judgment; Defendant's Motion for Summary Judgment; Stipulation (Plaintiffs' Exhibit 3); Minute Order Entered August 20, 1948; Answer to Complaint; Minute Order Entered August 26, 1948; Findings of Fact and Conclusions of Law; Judgment; Notice of Appeal; Stipulation re Record on Appeal; Stipulation re Exhibits; Stipulation and Order for Transmission of Original Exhibits and Petition and Order for Correction of Answer which, together with the original plaintiffs' Exhibits 1 and 2, transmitted herewith, constitute the record on appeal to the United States Court of Appeals for the Ninth Circuit.

Witness my hand and the seal of said District Court this 1st day of November, A. D. 1948.

(Seal)

EDMUND L. SMITH

Clerk

By Theodore Hocke

Chief Deputy

[Endorsed]: No. 12082. United States Court of Appeals for the Ninth Circuit. George C. Marshall, as Secretary of State, Appellant, vs. Miye Mae Murakami, Tsutako Sumi and Mutsu Shimizu, Appellees. Transcript of Record. Appeal From the District Court of the United States for the Southern District of California, Central Division.

Filed November 2, 1948.

PAUL P. O'BRIEN

Clerk of the United States Court of Appeals for the  
Ninth Circuit

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United States Court of Appeals for the Ninth Circuit

No. 12082

GEORGE C. MARSHALL, as Secretary of State,  
Appellant,

v.

MIYE MAE MURAKAMI, TSUTAKO SUMI, and  
MUTSU SHIMIZU,  
Appellees.

### STIPULATION RE PRINTING OF RECORD

It is hereby stipulated by and between the appellant, George C. Marshall, as Secretary of State, and the appellees Miye Mae Murakami, Tsutako Sumi, and Mutsu Shimizu, in the above entitled action through their respective counsel, James M. Carter, United States Attorney, and Ernest A. Tolin, Chief Assistant United States Attorney, for the appellant, and A. L. Wirin, Fred

Okrand, and Frank Chuman for appellees, that the entire record as certified by the Clerk of the District Court shall be printed as constituting the record on appeal with the exception of appellees' Exhibits 1 and 2.

Dated: This 26th day of October, 1948.

A. L. WIRIN

FRED OKRAND and

FRANK CHUMAN

By A. L. Wirin

Attorneys for Appellees

JAMES M. CARTER

United States Attorney

ERNEST A. TOLIN

Chief Asst. U. S. Atty.

By Ernest A. Tolin

Attorneys for Appellant.

So Ordered:

WILLIAM DENMAN

Chief Judge, U. S. Court of Appeals for the  
Ninth Circuit